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Superior Court of California
County of Los Angeles

AUG 01 2017

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11
12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **COUNTY OF LOS ANGELES, CENTRAL CIVIL WEST**
14

15 Coordinated Proceeding
Special Title (Rule 3.550)

16 LAOSD ASBESTOS CASES

Case No. JCCP4642

Los Angeles Superior Court Case No.
BC646439

NOTICE OF RULING

[Assigned for All Purposes to Judge Steven J. Kleinfeld,
Dept. 324]

Action Filed: January 12, 2017

Trial Date: None Set

18 BARBARA WITTMAN, an individual; JOHN
WITTMAN, an individual,

19 Plaintiffs,

20 v.

21 BRENNTAG NORTH AMERICAN, INC.
22 (sued individually and as successor-in-interest
to MINERAL PIGMENT SOLUTIONS, INC.
23 as successor-in-interest to WHITTAKER,
CLARK & DANIELS, INC.); BRENNTAG
24 SPECIALTIES, INC. f/k/a MINERAL
PIGMENT SOLUTIONS, INC. as successor-
25 in-interest to WHITTAKER, CLARK &
DANIELS, INC.; CHANEL, INC.;
26 COLGATE-PALMOLIVE COMPANY;
COTY INC.; CYPRUS AMAX MINERALS,
27 individually and as successor in interest to
SIERRA TALC COMPANY and UNITED
28 TALC COMPANY; IMERYS TALC

FAX

1 AMERICA, INC. f/k/a LUZENAC
 2 AMERICA, INC.; JOHNSON & JOHNSON;
 3 JOHNSON & JOHNSON CONSUMER
 4 COMPANIES, INC.; PERSONAL CARE
 5 PRODUCTS COUNCIL (f/k/a COSMETIC,
 6 TOILETRY, AND FRAGRANCE
 7 ASSOCIATION); PFIZER INC.; SAV-ON-
 8 DRUG STORES, INC.; WHITTAKER
 9 CLARK & DANIELS, INC.; and DOES 1
 10 through 400, inclusive,

11 Defendants,

12 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

13 **PLEASE TAKE NOTICE** that the Motion to Quash for Lack of Personal Jurisdiction
 14 filed by on Specially-Appearing Defendant PERSONAL CARE PRODUCTS COUNCIL
 15 (“PCPC”) was heard on July 27, 2017. Kyle Tracy appeared on behalf of Plaintiff and Jade Tran
 16 appeared on behalf of PCPC.

17 After consideration of the papers and hearing oral argument, the Court ruled that Plaintiff
 18 had not met her burden in establishing jurisdiction over PCPC. Accordingly, the Court granted
 19 PCPC’s Motion to Quash for Lack of Personal Jurisdiction. PCPC was ordered to prepare the
 20 Notice of Ruling.

21 DATED: July 31, 2017

22 WOOD, SMITH, HENNING & BERMAN LLP

23 By:

24 JADE N. TRAN

25 SARA M. JUAREZ

26 Attorneys for Specially-Appearing Defendant
 27 PERSONAL CARE PRODUCTS COUNCIL
 28

PROOF OF SERVICE**STATE OF CALIFORNIA, COUNTY OF ORANGE**

I am employed in the County of Orange, State of California. I am over the age of eighteen years and not a party to the within action. My business address is 5000 Birch Street, Suite 8500, Newport Beach, CA 92660.

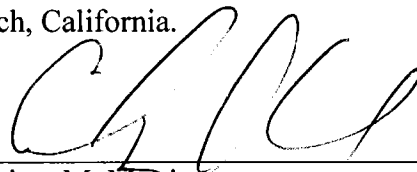
On August 1, 2017, I served the following document(s) described as **NOTICE OF RULING** on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

BY ELECTRONIC SERVICE: I electronically served the document(s) described above via File & ServeXpress, on the recipients designated on the Transaction Receipt located on the File & ServeXpress website (<https://secure.fileandservexpress.com>) pursuant to the Court Order establishing the case website and authorizing service of documents.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on August 1, 2017, at Newport Beach, California.



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**Wittman, et al. v. Brenntag North American, Inc. et al.
BC646439**

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1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 FOR THE COUNTY OF LOS ANGELES

3 DEPARTMENT 324

HON. STEVEN J. KLEIFIELD, JUDGE

4
5 BARBARA WITTMAN, ET AL.,)

6 PLAINTIFF,)

7 VS.)

CASE NO. BC646439

8 BRENNITAG NORTH AMERICA, INC., ET)
9 AL.,)

10 DEFENDANTS.)
11 _____)

12 REPORTER'S TRANSCRIPT OF PROCEEDINGS

13 THURSDAY, JULY 27, 2017

14
15 APPEARANCES OF COUNSEL:

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M A S T E R I N D E X

JULY 27, 2017

MATTER: MOTION TO QUASH.

CHRONOLOGICAL/ALPHABETICAL INDEX OF WITNESSES

NONE

E X H I B I T S

NONE OFFERED

1 CASE NUMBER: BC646439
2 CASE NAME: BARBARA WITTMAN VS.
3 BRENNTAG NORTH AMERICA
4 LOS ANGELES, CALIFORNIA THURSDAY, JULY 27, 2017
5 DEPARTMENT 324 STEVEN J. KLEIFIELD, JUDGE
6 REPORTER: MARK SCHWEITZER, CSR 10514
7 TIME: 1:50 P.M.

8 -o0o-

9 THE COURT: Good afternoon. Wittman. Appearances
10 please.

11 MS. TRAN: Good afternoon, your Honor. Jade Tran on
12 behalf of special specially appearing defendant Personal Care
13 Products Council.

14 MR. TRACY: And Kyle Tracy 'on behalf of the
15 Wittmans. We're trying to dismiss them. We're just hoping to
16 hear back from somebody about it. We feel like we actually do
17 have a legitimate claim to make; however, in conversations
18 with national counsel, they indicated to me that if we were to
19 win, that they would file an anti-SLAPP motion. And my
20 research into that has indicated to me that if they to that,
21 that it stays the proceedings. And with Barbara Wittman's
22 health at issue, I don't want to take a chance in doing that.
23 So I think the course that seems the best in Barbara Wittman's
24 interests would be to dismiss this defendant. And in doing
25 so, we're just asking for a mutual waiver of costs, and I
26 think we're just waiting to here if that's acceptable or not.

27 MS. TRAN: Well, your Honor, since we're already
28 here, if the Court has already done the work in reviewing the

1 papers, we'd like for the Court to make a ruling so that
2 possibly this same ruling could be used in the future to
3 preclude my client from being brought into California.

4 MR. TRACY: I think that we actually have a good
5 argument to make, but we're not making it; so I don't know
6 that that would be an appropriate. I think if maybe we could
7 put it over so we could hear back about our offer.

8 THE COURT: Are you the person who -- would you be
9 the decision maker on this particular issue as to whether you
10 or your client or your firm wants to get a ruling or see if
11 you can get a dismissal with a waiver of costs?

12 MS. TRAN: Your Honor, it's already been discussed
13 with the client, and I was instructed prior to some recent
14 emails with Mr. Tracy to go ahead with the hearing and to
15 obtain the ruling. So that's what we're here for today. You
16 know, we initially had filed this motion, and it was heard
17 several months ago. And at that time I believe Mr. Tracy had
18 admitted on the record that there really wasn't anything to
19 maintain personal jurisdiction over my client in California.

20 At that time he also argued that, well, you know, at
21 this juncture, we don't have enough information. So he asked
22 your Honor to conduct some limited jurisdictional discovery.
23 That discovery was served on us on May 16th. We answered it.
24 And then we were supposed to be here for a further hearing on
25 June 22nd. That morning we had an ex parte to continue the
26 hearing so that Mr. Tracy, based on his representations, could
27 continue to meet and confer and also to review some additional
28 cases that had come out by the United States Supreme Court.

1 During that hearing, your Honor, you said that we
2 would be here today and also that all additional briefing
3 would be due on the 20th. Since we hadn't reached an
4 agreement with Mr. Tracy, our office went ahead and filed
5 additional briefing. That should be in the Court's records.

6 And based on all of the work that's already been
7 done, the client wants to get a final ruling today and get out
8 rather than continue to bleed in terms of attorneys' fees.

9 THE COURT: Okay.

10 MR. TRACY: You know, I wasn't the attorney that
11 argued the first hearing. So I didn't say anything that was
12 just represented to the Court. I was at the last hearing, and
13 there was a new case that came down, and we did look at that
14 and the discovery responses, and we do think we actually have
15 a good faith argument.

16 I started meet and confer attempts last week to see
17 if we could come to a resolution in lieu of having to come in
18 and do this. And it was my understanding that something was
19 going to happen, and then it didn't happen, and the time to
20 file the brief had passed. So I don't want to concede on the
21 merits because I don't think that that's appropriate.

22 And if they want to proceed and actually do that,
23 would I just ask for a chance to file the brief because I do
24 think we have arguments to make.

25 THE COURT: Well, this has been pending for some
26 time, and my recollection is it was not you that was here for
27 the initial hearing. But I do recall there was some
28 discussion about how this was a fairly new defendant to

1 asbestos litigation and that plaintiff wanted an opportunity
2 to do jurisdictional discovery; so I granted that, and we put
3 the matter over. And counsel was correct. I did give the
4 opportunity for supplemental briefing. The U.S. Supreme Court
5 issued its decision in the Bristol Myers Squibb case, and
6 defendant filed supplemental brief by the due date, and
7 plaintiff did not.

8 I think there's been enough time to try and resolve
9 the issue. Defendant is here. They want a ruling. I think
10 they are entitled to a ruling.

11 MR. TRACY: Can we go off the record for one second?

12 THE COURT: Yes, we can go off the record for a
13 second.

14 (DISCUSSION HELD OFF THE RECORD.)

15 THE COURT: All right. Let's go back on the record.

16 Well, in any event, I think that the burden was
17 placed on the plaintiff to establish facts or to provide facts
18 that would establish a specific jurisdiction. Certainly
19 there's no question that there is not general jurisdiction.
20 And I don't think that plaintiff has submitted evidence that
21 the defendant purposely availed itself of the benefits of
22 California during the relevant time period or at all, much
23 less that they did anything that was in California that was
24 related to or gave rise to the plaintiff's action. So the
25 motion to quash is granted. The moving party to give notice.

26 MS. TRAN: Thank you, your Honor.

27 MR. TRACY: Thank you.

28 (Proceedings concluded at 2:00 P.M.)

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 2 FOR THE COUNTY OF LOS ANGELES
 3 DEPARTMENT 324 HON. STEVEN J. KLEIFIELD, JUDGE
 4

5 BARBARA WITTMAN, ET AL.,)
 6 PLAINTIFF,)
 7 VS.) CASE NO. BC646439
 8 BRENNTAG NORTH AMERICA, INC., ET)
 9 AL.,)
 10 DEFENDANTS.)
 11 _____)
 12
 13

14 I, MARK SCHWEITZER, OFFICIAL COURT REPORTER PRO TEM
 15 OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF
 16 LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING TRANSCRIPT,
 17 DATED JULY 27, 2017, COMPRISES A FULL, TRUE, AND CORRECT
 18 TRANSCRIPT OF THE PROCEEDINGS HELD IN THE ABOVE-ENTITLED
 19 CAUSE.

20 DATED THIS 9TH DAY OF JULY, 2017.

21 

22 _____
 23 MARK SCHWEITZER, RPR, CRR, CSR NO. 10514
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 25
 26
 27
 28